

RULE 110B. PREHEARING SCHEDULE AND PROCEDURE FOR CASES INVOLVING NO MINOR CHILDREN

The procedures in this rule apply to all actions under this chapter in which there are no minor children, except post-judgment motions.

(a) Scheduling Order. Upon the filing of an answer, response, or entry of appearance, the court shall issue a Scheduling Order which sets deadlines for: filing of financial statements and real estate certificates, scheduling and completion of mediation as provided in Rule 92(b), completion of discovery, date for exchanging witness and exhibit lists, scheduling of a pre-trial conference if necessary, filing of motions, and placement of the action on the trial list. Before the issuance of the Scheduling Order, parties may file an agreed-upon Scheduling Order covering all the deadlines outlined above. The Scheduling Order may be modified upon motion and for good cause shown. An agreement by the parties to amend the Scheduling Order may constitute good cause shown. Sanctions may be imposed for non-compliance with the order.

(b) Failure to Respond. If no answer, response, or entry of appearance is filed, the clerk shall set the case for an uncontested hearing.

(c) Prehearing Conference. Upon the court's own motion or at the request of a party, the court may hold prehearing conferences, including a judicial settlement conference, as provided in Rule 16(b) or Rule 16A and to address prehearing and hearing issues including case management. The court shall exercise its discretion in deciding whether to permit a party to participate in conferences, mediation or hearings by telephone.

(d) Post-Judgment Motions. The pretrial procedure for post-judgment motions in which there are no minor children shall be left to the discretion of the court upon review of the filings.

Advisory Notes June 2008

Because there is no case management system for cases that do not involve minor children, some system-wide procedure should be implemented. Scheduling Orders shall be issued in cases that are not subject to the Case Management System. These orders have been employed in some

of the courts across the state and have been effective at managing the flow of cases when there is no Family Law Magistrate oversight. These cases may involve highly charged, emotional issues. There may be cases in which both parties agree that the court-ordered schedule does not meet their needs. The court should honor a request made jointly by the parties to amend the Scheduling Order. Scheduling Orders need not be issued when there is no answer, response or entry of appearance. The rule also provides that these cases should be set for uncontested hearing so that they do not lay dormant.

Rule 110B is the former Rule 80(h). It has been the practice of the court to hold prehearing conferences to discuss discovery and trial issues and to hold judicial settlement conferences. All conferences before a final hearing are prehearing conferences and the authority to hold them is derived from this rule. The rule permits attendance by telephone, if permission is acquired before the conference, mediation or hearing.

Because there is a variety of post-judgment motions, a standard Scheduling Order would be impossible to draft. The court must exercise its discretion to determine the appropriate pretrial procedure in any particular case after review of the filings.